

J589DAW1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x
4 UNITED STATES OF AMERICA,

v.

17 CR 684 (ER)

5 CHRISTIAN DAWKINS AND MERL
6 CODE,

7 Defendants.
8 -----x

9
10 New York, N.Y.
11 May 8, 2019
12 11:10 a.m.

13 Before:

14 HON. EDGARDO RAMOS

15 District Judge

16 APPEARANCES

17 GEOFFREY S. BERMAN
18 United States Attorney for the
19 Southern District of New York
20 ROBERT L. BOONE
21 NOAH D. SOLOWIEJCZYK
22 ELI J. MARK
23 Assistant United States Attorneys

24 HANEY LAW GROUP PLLC
25 Attorney for Defendant Dawkins
BY: STEVEN A. HANEY

CHANAY LEGAL SERVICES, LLC
BY: DAVID A. CHANAY, JR.
-and-
NEXSEN PRUET, LLC
BY: ANDREW A. MATHIAS
Attorneys for Defendant Code

ALSO PRESENT: JOHN VOURDERIS, Special Agent FBI
YOLANDA BUSTILLO, Paralegal Specialist USAO
EMILY GOLDMAN, Paralegal Specialist USAO

J589DAW1

1 (Jury not present)

2 THE COURT: We do have another note and it asks us to
3 provide further definition of specific intent that's defined at
4 the bottom of page 30. And the note reads as follows: On the
5 bottom of page 30, specific intent to defraud means to
6 knowingly, willfully, and with specific intent to deceive for
7 the purpose of depriving, etc. Can you redefine without
8 reusing the same term? And they also ask for coffee.

9 MR. MARK: With a smiley face.

10 THE COURT: Smiley face. And then I will give the
11 parties a couple of minutes to think about how they may want to
12 respond.

13 MR. HANEY: We may, your Honor.

14 THE COURT: OK.

15 (Pause)

16 THE COURT: You folks ready?

17 MR. HANEY: Yes, your Honor.

18 MR. CHANEY: Yes, your Honor.

19 THE COURT: OK. Mr. Solowiejczyk.

20 MR. SOLOWIEJCZYK: Your Honor, we have reviewed the
21 note. We think that there's some language that could just give
22 the jury a little more color about the sorts of things they
23 need to consider in assessing specific intent to defraud. I
24 don't think there's a way to redefine what those terms mean.
25 It would just be about putting a little more meat on the bones

J589DAW1

1 for them and giving them some things to think about. So we
2 have some proposed language for your Honor's consideration.

3 THE COURT: OK.

4 MR. SOLOWIEJCZYK: I was starting to write it out but
5 I can just read it aloud.

6 THE COURT: OK.

7 MR. SOLOWIEJCZYK: This is actually from the charge
8 that Judge Kaplan gave in the Gatto case so I'll read that and
9 we have a second portion that relates specifically to honest
10 services fraud because the Gatto case was just a straight wire
11 fraud case, as your Honor knows.

12 THE COURT: You can sit down. Move the microphone
13 closer.

14 MR. SOLOWIEJCZYK: So, this is the first proposed
15 language.

16 The ultimate facts of knowledge and criminal intent,
17 though subjective, may be established by circumstantial
18 evidence based upon a person's outward manifestations, his or
19 her words, his or her conduct, his or her acts and all of the
20 surrounding circumstances and the rational or logical
21 inferences that may be drawn from it. You may also infer, but
22 are not required to infer, that people intend the natural and
23 probable consequences of their actions. Accordingly, when the
24 necessary result of a scheme is to deceive others, fraudulent
25 intent may be inferred from the scheme itself.

J589DAW1

1 That's from the Second Circuit D'Amato case, your
2 Honor.

3 THE COURT: D'Amato?

4 MR. SOLOWIEJCZYK: That particular line.

5 And then this is specific to honest services fraud.
6 And this comes from I can cite the cases afterwards but this is
7 from our requests to charge.

8 However -- actually no however. You may consider any
9 evidence that the defendants intended that the relevant coach
10 would intentionally not disclose or conceal material
11 information about a financial or personal conflict of interest,
12 money received, or any behavior indicating consciousness of
13 guilt as evidence of specific intent to defraud.

14 That's adapted from Judge Preska's charge in U.S. v.
15 Tanner which was a private sector honest services fraud case.
16 In addition, similar charges were given in United States v.
17 Percoco, 16 CR 776. There's a Second Circuit case called
18 Middlemiss, 217 F.3d 112 that the jury can infer criminal
19 intent from nondisclosure of financial interests by a public
20 official. And then United States v. Sawyer, 85 F.3d 713 (First
21 Circuit 1996) where a public official has an affirmative duty
22 to disclose material information, intentional violation of that
23 duty proves deceit.

24 And here, your Honor, there was evidence that these
25 coaches had ongoing disclosure duties. There was also

J589DAW1

1 evidence, explicit discussions in the evidence about how the
2 defendants knew the coaches could not disclose these payments,
3 that these payments would actually have to be hidden. So we
4 think it's appropriate, and there's at least, as to one
5 witness, evidence that they affirmatively did not disclose to
6 the university.

7 THE COURT: Mr. Chaney.

8 MR. CHANEY: And, your Honor, I don't think -- much
9 like the answer to the first question, I don't think that the
10 government's proposed answer is responsive to the question.

11 The jury is not asking what evidence should we rely
12 upon to make this decision. They're asking a very pointed
13 question which is: What does specific intent to defraud mean?
14 And they're asking directly for the definition to not include
15 the phrase "specific intent." I think they quote directly from
16 the Court's charges on page 30 which uses the phrase "specific
17 intent" to define the phrase specific intent.

18 The defense proposed answer to the question goes
19 directly to answer just that question and nothing more without
20 unduly highlighting any of the evidence that the jury has
21 received in this case.

22 As the Court knows, it's the jury's job to weigh and
23 apportion evidence as they see fit. And I think the
24 government's proposed answer to this question unduly highlights
25 the evidence, particularly highlighting evidence that the

J589DAW1

1 government believes shows that either or both of the defendants
2 is guilty which is inappropriate.

3 So our proposed answer is: A person acts with
4 specific intent to deceive when the conscious objective of his
5 or her conduct is to deceive for the purposes of depriving the
6 relevant university of its right to its coach's honest
7 services. It simply uses the phrase "conscious objective"
8 which is pretty common in case law when associating definitions
9 with specific intent and answers the question of how do we
10 define this phrase without using --

11 THE COURT: Can you repeat that. A person acts with
12 specific intent when?

13 MR. CHANEY: With specific intent to deceive when the
14 conscious objective of his or her conduct is to deceive for the
15 purpose of depriving the relevant university of its right to
16 its coach's honest services.

17 THE COURT: The last part again? Of his or her
18 conduct is --

19 MR. CHANEY: To deceive for the purpose of depriving
20 the relevant university of its right to its coach's honest
21 services.

22 That second part is the continuation after the
23 ellipses in the jury's question. It's what's already in the
24 instruction.

25 MR. SOLOWIEJCZYK: Your Honor, a couple things.

J589DAW1

1 One, I think the specific intent to deceive, the
2 language we proposed in particular about undisclosed financial
3 interests, concealment of those things, it actually goes
4 straight to specific intent to deceive. It is responsive to
5 that. It explains further the ways they can infer whether
6 there was specific intent to deceive or not. So it is
7 responsive to the question.

8 THE COURT: Why don't you -- are you able to printout
9 what you have, to write it -- to give it to me in --

10 MR. SOLOWIEJCZYK: Yes, we can. If we could have one
11 minute for a paralegal to go get a laptop we can type it out
12 for you very quickly.

13 THE COURT: Because I think I want to incorporate
14 aspects of both of your recommendations.

15 MR. CHANEY: Your Honor, if we're going to be in the
16 business of pointing the jury to particular arguments, then the
17 defense would ask for a few minutes to write our own arguments
18 like the government.

19 MR. SOLOWIEJCZYK: Your Honor, one thing on the
20 defendants' proposed instruction, the conscious objective
21 language the government does view as problematic. As your
22 Honor is aware from the charge that you've already given, there
23 is the dual intent instruction. And the defendants don't need
24 to be solely motivated by an intent to defraud. It just needs
25 to be a partial motivation. The conscious objective language

J589DAW1

1 risks the jury thinking that that needs to be sort of the sole
2 driving purpose of why they're doing what they're doing.

3 So we do have some issues with it. And we're not -- I
4 mean, look, obviously specific intent to defraud has been
5 defined many times in many different places and it's not
6 typically defined by using the term conscious objective.

7 THE COURT: Let's wait and see what we got.

8 MR. SOLOWIEJCZYK: We have our proposed language here
9 for your Honor's review. I'm going to let my colleague look at
10 it.

11 THE COURT: I'm sorry?

12 MR. SOLOWIEJCZYK: We have the proposed language. I'm
13 going to let my colleagues read it to make sure it's
14 understandable.

15 THE COURT: OK.

16 (Pause)

17 THE COURT: Can we get a copy?

18 MR. SOLOWIEJCZYK: We could also type this out if
19 that's easier, your Honor.

20 THE COURT: Let me just read it. Government's
21 proposed additional language. The ultimate facts of knowledge
22 and criminal intent, though subjective, may be established by
23 circumstantial evidence based upon a person's outward
24 manifestation, his or her words, his or her conduct, his or her
25 acts, and all of the surrounding circumstances and the rational

J589DAW1

1 or logical inferences that may be drawn from it. You may also
2 refer, but are not required to infer, that people intend the
3 natural and probable consequences of their actions.

4 Accordingly, when the necessary result of a scheme is
5 to deceive others, fraudulent intent may be inferred from the
6 scheme itself. You may consider any evidence that the
7 defendants intended that the relevant coach would intentionally
8 not disclose or conceal material information about a financial
9 or personal conflict of interest, money received or any
10 behavior indicating consciousness of guilt as evidence of
11 specific intent to defraud.

12 So that's that language.

13 MR. CHANEY: Your Honor, with respect to what I can
14 remember from what the Court just read, we would renew our
15 objection on the same grounds. We think that the thrust of it
16 is problematic for substantially the same reasons I already
17 brought up, particularly the last paragraph where there is
18 explicit reference to particular facts in the case. From what
19 I -- what appeared to be the first paragraph of the
20 government's instruction, these are the things you can
21 generally use, we don't have as strong of an objection to that.
22 I think it's just the general statement of what the jury can
23 rely upon in determining the facts and applying it to the law.
24 So it seems substantially similar to what the Court has already
25 charged them on.

J589DAW1

1 THE COURT: I'll think in the first place it's not
2 unusual for jury instructions in the first instance to
3 incorporate actual facts of the case. I tend not to do that
4 just because it creates a lot of controversy amongst the
5 parties and I give them just sort of the basic outlines of the
6 definition. But it's not unusual for courts to do that.

7 Here, the jury apparently is struggling with how to
8 approach a particular subject. And I think it's helpful to
9 give them some idea of how they can construe the evidence in
10 the case in helping them to get at this issue.

11 MR. HANEY: Your Honor, may I add?

12 My position really, your Honor, is similar to the
13 first issue that we had. This is a smart jury. We have two
14 lawyers on the jury.

15 I believe that asking the government and asking the
16 defense to provide a clarifying instruction, what it's really
17 doing is a self-serving process. Certainly the government is
18 not going to offer an instruction that I submit, though I
19 believe they're in good faith doing their job, they're not
20 going to submit an instruction that's going to help the
21 defense, for sure; and the defense isn't going to submit an
22 instruction or any proposed clarity that's going to help the
23 government.

24 I believe that this jury should be able to figure this
25 out. They have it defined for them. They're a smart jury.

J589DAW1

1 And they listened very intently to this case; one of the
2 smartest juries I've ever tried a case in front of, your Honor.
3 I think your Honor would probably agree. I think they should
4 be able to figure this out without having self-serving
5 interjections from both sides.

6 THE COURT: Clearly, they're not. So they requested
7 guidance.

8 MR. CHANEY: Your Honor, to the degree --

9 THE COURT: By the way, it's not because they're not
10 smart. These are some difficult concepts.

11 MR. HANEY: Understood.

12 MR. CHANEY: Insofar as the Court is considering
13 adding some instructions that incorporate the facts of our
14 case, the defendants would propose the following language:
15 When assessing whether the government has proved if either
16 defendant acted with the specific intent to deceive, you may
17 consider whether the defendants believed that the respective
18 universities had knowledge of or endorsed their coach's
19 practice of violating NCAA rules during the recruitment of
20 college athletes. If the defendants believed that they were
21 inducing coaches to engage in conduct that was expected by
22 their respective universities, they may lack the specific
23 intent to defraud those universities of the honest services of
24 their coaches.

25 THE COURT: That I will not instruct them on. OK.

J589DAW1

Let me ask the parties their view of something along these lines and I'm happy to hear any argument against it.

Whether the particular defendant you are considering intended to break the law does not matter. What matters is whether he intended to do that which is unlawful.

MR. SOLOWIEJCZYK: No objection from the government on that.

MR. CHANEY: We think that's an accurate statement of law. So I don't think I can object to that.

THE COURT: Very well. So why don't I work on this a little bit and come back out. I don't think we've gotten a note asking -- telling us to hurry up. As we know, they are perfectly capable of doing that. OK.

Also I have an 11:45. So if they're here -- and I don't see anyone here.

(Continued on next page)

J58HDaw2

1 THE COURT: Any objections?

2 MR. MARK: No, your Honor.

3 MR. CHANEY: One moment, Judge.

4 THE COURT: Yes. I hope to give them a copy of this.

5 MR. CHANEY: Your Honor, I can speak for Mr. Code. I
6 think Mr. Haney can either piggyback on what I have to say or
7 add his own comments.

8 With respect to the Court's use of the language that
9 the defense already proposed being in the second sentence of
10 the second paragraph --

11 THE COURT: Yes.

12 MR. CHANEY: -- "On the facts of this case, a person
13 acts with specific intent to deceive when," and the Court took
14 out the word "conscious." I believe we had "the conscious
15 objective" and the Court used the indefinite article and took
16 out the word "conscious." I think if we leave the switch to
17 the indefinite article but put back the word "conscious"
18 because it's clear it cannot be an accidental purpose. It is
19 the conscious purpose. They do already have an instruction on
20 dual intent, but it must be an intent, one that's known in the
21 mind of the actor when the conduct occurs. So we would ask
22 that "conscious" be put back in that statement.

23 We would object to everything after the word
24 "accordingly." If the Court leaves those statements in, we
25 think that the word "others" at the -- "Accordingly, when the

J58HDaw2

1 necessary result of a scheme is to deceive others," I think
2 that's somewhat misleading under the context because if you're
3 trying to deceive someone other than the victim, then we don't
4 think that's an appropriate statement of the law.

5 THE COURT: I'm happy to take "others" out.

6 MR. CHANEY: We would ask that "others" be modified to
7 "the victim of the fraud," or something like that, because
8 that's the intent that matters. For example, if there is a
9 scheme to deceive the NCAA, that does not necessarily -- then
10 it doesn't stand to reason that fraudulent intent to deceive a
11 university may be inferred from that scheme.

12 THE COURT: Anything else?

13 MR. CHANEY: That's it, Judge.

14 THE COURT: OK. Mr. Solowiejczyk.

15 MR. SOLOWIEJCZYK: Your Honor, on the "deceive
16 others," we're OK changing it to "deceive the university." We
17 don't have a problem with that so it's not confusing.

18 On the "conscious objective" language, your Honor,
19 one, the charge is full of repeatedly informing the jury that
20 they can't -- that this has to be done knowingly. That's been
21 made very clear to the jury. But, two, the word "objective,"
22 you can't have an unconscious objective. An objective is
23 something that you seek to do. So you don't need the word
24 "consciously" respectfully.

25 MR. CHANEY: And, your Honor, I can point the Court to

J58HDaw2

1 probably a half dozen cases even in the fraud context where the
2 phrase "conscious objective" is used explicitly to instruct the
3 jury, even from this district. I'll cite the Court to U.S. v.
4 Karron, K-a-r-r-o-n, 750 Fed.Supp.2d 480. That's a Southern
5 District from 2011 saying, for example, the defendant's
6 misapplication must have been the product of the defendant's
7 conscious objective to spend the money for an unauthorized
8 purpose, using that phrase to define for the jury specific
9 intent. It is not a phrase that the defense is making up out
10 of thin air. It is a common legal phrase used to define
11 specific intent.

12 THE COURT: OK.

13 MR. HANEY: Your Honor, my only point would be on
14 behalf of my client, at the point where it says "you may
15 consider," that last sentence, which does piggyback on the
16 comments by Mr. Chaney after "accordingly," but more
17 specifically, "You may consider any evidence that the
18 defendants intended that the relevant coach would intentionally
19 not disclose, or conceal, material information about a
20 financial or personal conflict of interest, money received or
21 any behavior, indicating consciousness of guilt as evidenced by
22 a specific intent to defraud," we would object to that last
23 sentence in that particular instruction, your Honor.

24 THE COURT: Very well. Over the defense objections, I
25 will leave this as is except with respect to the sentence that

J58HDaw2

1 begins "accordingly," it will read: "Accordingly, when the
2 necessary result of a scheme to deceive the university you are
3 considering, fraudulent intent may be inferred from the scheme
4 itself."

5 Actually, does that make sense?

6 MR. CHANEY: It does. I think you skipped the word
7 "is."

8 THE COURT: OK.

9 MR. CHANEY: But yes.

10 THE COURT: "Is to deceive." OK. So we'll make that
11 change.

12 Ms. Dong, can you do that and print it out for me, and
13 then we'll bring the jury out. OK. And make another half a
14 dozen copies for the jury.

15 Can you tell the CSO to bring out the jury.

16 THE DEPUTY CLERK: Yes.

17 (Discussion off the record)

18 MR. CHANEY: Your Honor, do I have like five seconds
19 before the jury comes out?

20 THE COURT: Five seconds.

21 MR. CHANEY: OK. I would also cite to *Jacobowitz*,
22 which is 877 F.2d 162, Second Circuit from 1989: The intent to
23 defraud means that the offender has a conscious, objective
24 desire or purpose to deceive.

25 THE COURT: I took that out primarily because -- just

J58HDaw2

1 to make easier for the jury, just to put it in as natural
2 language as possible. I think that the essence of that phrase
3 is in there.

4 Off the record.

5 (Discussion off the record)

6 THE COURT: Several of the jurors apparently took a
7 break, get out of the room, and they're working their way back,
8 I hope.

9 (Jury present)

10 THE COURT: Everyone, please be seated.

11 Good afternoon, ladies and gentlemen. Good to see you
12 all again. We've gotten your note, and it reads -- it's been
13 marked Court Exhibit 8, and it reads as follows:

14 "On the bottom of page 30, specific intent to defraud
15 means to knowingly, willfully, and with the specific intent to
16 deceive for the purpose of depriving ... Can you redefine
17 without using the same term? Please also send more coffee!
18 Smiley face."

19 OK. So I will read you this further instruction, and
20 I will also provide copies of it for you.

21 Because intent is a state of mind, it can rarely be
22 proved with direct evidence and ordinarily must be inferred
23 from the facts of the case. More specifically, the ultimate
24 fact of criminal intent, though subjective, may be established
25 by circumstantial evidence based on a person's words, his

J58HDaw2

1 conduct, his acts, and all of the surrounding circumstances,
2 and the logical inferences that may be drawn from them. You
3 may also infer, but are not required to infer, that people
4 intend the natural and probable consequences of their actions.

5 Whether the particular defendant you are considering
6 intended to break the law does not matter. What matters is
7 whether he intended to do that which is unlawful. On the facts
8 of this case, a person acts with specific intent to deceive
9 when an objective of his conduct is to deceive for the purpose
10 of depriving the relevant university of its right to its
11 coach's honest services. Accordingly, when the necessary
12 result of a scheme is to deceive the university you are
13 considering, fraudulent intent may be inferred from the scheme
14 itself. You may consider any evidence that the defendants
15 intended that the relevant coach would intentionally not
16 disclose, or conceal, material information about a financial or
17 personal conflict of interest, money received, or any behavior
18 indicating consciousness of guilt as evidence of specific
19 intent to defraud.

20 So that is the further instruction. We will provide
21 you with copies. You may now resume with your deliberations.

22 (Jury deliberations resumed at 12:21 p.m.)

23 THE COURT: Everyone can be seated. We will await
24 further word.

25 (Recess pending verdict)

J58HDaw4

1 THE COURT: The parties can come up in the Dawkins
2 matter. I assume that you have been told that we received a
3 note from the jury that they have reached a verdict.

4 Does either side wish me to poll the jury?

5 MR. CHANEY: Yes, please, your Honor.

6 THE COURT: Very well. The jury will be polled.

7 Ms. Rivera.

8 So the parties are aware, it's my practice to speak
9 with the jury afterwards. I speak with them for five minutes.
10 I don't speak with them about the substance of the case. I
11 simply ask them about the experience and whether there's
12 anything that we as the court can do to make the experience
13 better, that type of thing. I will also instruct them that
14 they will be free to speak with anyone, including the parties
15 and the press, if you folks want to speak with them, but that
16 they are also free to simply go home. And if that is what they
17 express to you once they are done, then all of you, including
18 members of the press, are to leave them alone and let them go
19 on their way. OK?

20 MR. HANEY: Thank you, your Honor.

21 (At 2:47 p.m., jury present)

22 THE COURT: Everyone, please be seated.

23 Ms. Rivera is getting a verdict form.

24 Ladies and gentlemen, we have received your note. It
25 has been marked Court Exhibit 8A, and it reads as follows: "We

J58HDaw4

1 have reached a verdict."

2 Is that correct, madam foreperson?

3 THE FOREPERSON: It is, your Honor.

4 THE COURT: Ms. Rivera, would you please get the
5 verdict.

6 Ms. Rivera, please take the verdict.

7 THE DEPUTY CLERK: Count One, conspiracy to commit
8 bribery. As to Count One, how do you find the defendant
9 Christian Dawkins, guilty or not guilty?

10 THE FOREPERSON: Guilty.

11 THE DEPUTY CLERK: As to Count One, how do you find
12 the defendant Merl Code, guilty or not guilty?

13 THE FOREPERSON: Guilty.

14 THE DEPUTY CLERK: Count Two, bribery. As to Count
15 Two, how do you find the defendant Christian Dawkins, guilty or
16 not guilty?

17 THE FOREPERSON: Guilty.

18 THE DEPUTY CLERK: As to Count Two, how do you find
19 the defendant Merl Code, guilty or not guilty?

20 THE FOREPERSON: Not guilty.

21 THE DEPUTY CLERK: Count Three, conspiracy to commit
22 honest services wire fraud. As to Count Three, how do you find
23 the defendant Christian Dawkins, guilty or not guilty?

24 THE FOREPERSON: Not guilty.

25 THE DEPUTY CLERK: As to Count Three, how do you find

J58HDaw4

1 the defendant Merl Code, guilty or not guilty?

2 THE FOREPERSON: Not guilty.

3 THE DEPUTY CLERK: Count Four, honest services wire
4 fraud, Lamont Evans. As to Count Four, how do you find the
5 defendant Christian Dawkins, guilty or not guilty?

6 THE FOREPERSON: Not guilty.

7 THE DEPUTY CLERK: Count Five, honest services fraud,
8 Emanuel Richardson. As to Count Five, how do you find the
9 defendant Christian Dawkins, guilty or not guilty?

10 THE FOREPERSON: Not guilty.

11 THE DEPUTY CLERK: Count Six, conspiracy to violate
12 the Travel Act. As to Count Six, how do you find the defendant
13 Christian Dawkins, guilty or not guilty?

14 THE FOREPERSON: Not guilty.

15 THE DEPUTY CLERK: As to Count Six, how do you find
16 the defendant Merl Code, guilty or not guilty?

17 THE FOREPERSON: Not guilty.

18 THE COURT: You may be seated.

19 Ladies and gentlemen, on behalf of the court, on
20 behalf of the parties, I want to thank you for all of your hard
21 work. It's been very evident to me just how hard you've been
22 working. And I want you to appreciate that a defining feature
23 of our system of justice is that when we have very difficult,
24 indeed, momentous decision to make involving the very liberty
25 of our fellow citizens, we literally turn to our neighbors, and

J58HDaw4

1 we rely on your collective wisdom to help us make these very
2 important decision. So I hope that you appreciate the very
3 important role that you have played in that regard.

4 Your service is now complete. You may now discuss
5 this case with anyone you wish, or if you wish, you may discuss
6 this case with no one. The parties may wish to speak with you
7 as you leave in order that they may learn what motivated you to
8 choose or to decide the case in the way that you did, and you
9 may discuss this case -- you may speak with them if you wish,
10 and if you do not wish to speak with them, simply let them know
11 that, and they will leave you alone and you may go about your
12 lives.

13 If I can bother you just to wait a couple minutes in
14 the jury room, and I'll be back in just a second. OK.

15 MR. SOLOWIEJCZYK: Your Honor, they asked to poll the
16 jury.

17 THE COURT: Oh, I'm sorry. You have to sit back down.
18 My fault. I need to ask each of you a question.

19 Juror No. 1, is this your verdict, yes or no?

20 JUROR: Yes.

21 THE COURT: Juror No. 2, is this your verdict?

22 JUROR: Yes.

23 THE COURT: Juror No 3, is this your verdict?

24 JUROR: Yes, it is.

25 THE COURT: Juror No. 4, is this your verdict?

J58HDaw4

1 JUROR: Yes.

2 THE COURT: Juror No. 5, is this your verdict?

3 JUROR: Yes.

4 THE COURT: Juror No. 6, is this your verdict?

5 JUROR: Yes.

6 THE COURT: Juror No. 7, is this your verdict?

7 JUROR: Yes.

8 THE COURT: Juror No. 8, is this your verdict?

9 JUROR: Yes.

10 THE COURT: Juror No. 9, is this your verdict?

11 JUROR: Yes.

12 THE COURT: Juror No. 10, is this your verdict?

13 JUROR: Yes.

14 THE COURT: Juror No. 11, is this your verdict?

15 JUROR: Yes.

16 THE COURT: Juror No. 12, is this your verdict?

17 JUROR: Yes.

18 THE COURT: Thank you. So say you all. Now.

19 (Jury excused)

20 THE COURT: Everyone can be seated.

21 Folks, I don't know if you wanted to make motions now
22 or if you wanted to reserve your right to make such motions.

23 MR. CHANEY: We would reserve at this time.

24 MR. HANEY: Reserve as well, your Honor. Thank you.

25 THE COURT: Unless there's anything else you want need

J58HDaw4

1 me to do, I want to thank the attorneys and the attorneys that
2 here on a *pro hac vice* basis. Your professionalism and
3 courtesies were both always incredibly appreciated. And like I
4 said, I'll speak with the jury; I'll speak with them briefly.
5 You can speak with them if they wish. Otherwise, leave them
6 alone. OK.

7 MR. HANEY: Yes, your Honor.

8 (Adjourned)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25